



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Imus for Congress
and Chad Hanely in his official capacity as treasurer
John Fugatt
P.O. Box 308
Blue Jay, CA 92317-0308

MAY 23 2014

RE: MUR 6614
Imus for Congress, *et al.*

Dear Messers. Hanely and Fugatt:

On July 31, 2012, the Federal Election Commission notified Imus for Congress and Chad Hanely in his official capacity as treasurer (collectively the "Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On May 15, 2014, based upon the information contained in the complaint, and information provided by Mr. Fugatt on behalf of the Committee and candidate Gregg Imus, the Commission decided to dismiss the complaint as to the Committee.

The Commission encourages the Committee to review the Factual and Legal Analysis, which sets forth the statutory and regulatory provisions considered by the Commission in this matter. A copy is enclosed for the Committee's information and future reference. In particular, the Commission reminds the Committee to take steps to comply with the requirements of 2 U.S.C. § 434(a), which pertains to the filing of financial disclosure reports. For further information on the Act and Commission regulations, please refer to the Commission's website at www.fec.gov or contact the Commission's Public Information Division at (202) 694-1100.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

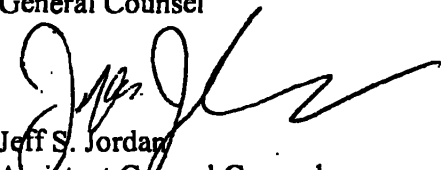
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If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel
Complaints Examination
& Legal Administration

Enclosure:
Factual and Legal Analysis

cc: Gregg Imus

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Imus for Congress
Chad Hanely as treasurer
Gregg Imus

MUR 6614

I. INTRODUCTION

This matter was generated by a Complaint filed by Robert A. Roberts ("Roberts"), on behalf of the East Valley Taxpayers Coalition, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Imus for Congress and Chad Hanely in his official capacity as treasurer (the "Committee") and Gregg Imus ("Imus") (collectively, "Respondents"). After reviewing the record, the Commission dismisses this matter as to the Committee, reminds the Committee of the requirements of 2 U.S.C. § 434(a) pertaining to the filing of financial disclosure reports, and finds no reason to believe that Imus violated the Act or Commission regulations.

FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Roberts, on behalf of the East Valley Taxpayers Coalition, alleges that Imus¹ and his Committee failed to file a 2012 12 Day Pre-Primary Report ("Pre-Primary Report" or "Report") covering the time period from April 1, 2012 through May 16, 2012. Compl. at 1.² Roberts alleges that the Committee's failure to file its Pre-Primary Report concealed from the public both

¹ Imus, a candidate in California's June 5, 2012 primary election, sought to represent California's 8th congressional district. The Committee is his principal campaign committee.

² Although the Reports Analysis Division ("RAD") notified the Committee on May 25, 2012 that its Pre-Primary Report had not been filed, Roberts states that the Committee had not filed the Report "to date." *Id.* at 1; see also Compl., Attach. A (copy of RAD's May 25, 2012 Notice to the Committee).

1 the "true source" of the contributions and "expenditures since April 1, 2012" by the Committee.

2 *Id.* at 2.

3 John Fugatt ("Fugatt")³ filed a response on behalf of the Committee in which he
4 acknowledges that the Committee had failed to timely file its Pre-Primary Report. Committee
5 Response at 1. According to Fugatt, this resulted from the fact that "the necessary support for
6 expenditures made by the campaign were still being gathered" and sent to him, after which
7 Fugatt had to obtain additional information. *Id.* Fugatt asserts that the Committee "filed [the
8 Report] as soon as the information was complete." *Id.*, see also Committee 12-Day Pre-Primary
9 Report filed on July 16, 2012. Fugatt expresses regret for the delayed filing, noting that the
10 campaign was staffed with "a small group of grassroots activists and unpaid volunteers." *Id.* He
11 also states that the Committee is "up to date" in terms of filing its reports and pledges to file all
12 subsequent reports timely. *Id.* Separately, Imus states that Fugatt "accurately reflects the reason
13 for the late filing." See Imus Response at 1.

14 After the Complaint and Responses in this matter were received, the Commission
15 processed two additional matters involving the Committee through the Administrative Fine
16 ("AF") program. In AF Case 2633, the Commission found reason to believe that the Committee
17 failed to file its 2012 30-Day Post-General Report in violation of 2 U.S.C. § 434(a). The
18 Commission approved a civil penalty of \$990, which the Committee paid on March 22, 2013.
19 See AF 2633 at 16 (notification letter from Chair Weintraub to the Committee dated April 16,
20 2013). Subsequently, in AF Case 2712, the Commission found reason to believe that the

³ It appears that Fugatt, rather than official treasurer Chad Hanely, may be acting as the Committee's treasurer. See Miscellaneous Report filed by Imus on May 2, 2013 stating that Fugatt had become the Committee's treasurer "during the [2012] campaign." Despite several notifications from RAD, the Committee failed to properly amend its Statement of Organization to reflect that Fugatt was its treasurer. Therefore, Hanely remains the Committee's treasurer of record.

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1 Committee had failed to file its 2012 Year-End Report in violation of 2 U.S.C. § 434(a).
2 Although the Commission approved a civil penalty of \$990, it ultimately determined to assess no
3 civil penalty and close the file. The Commission explained that it had revised the amount of the
4 civil penalty to reflect the “actual level of activity disclosed in the miscellaneous document”⁴
5 filed by Imus on May 2, 2013.⁵ See AF 2712 at 38 (notification letter from Chair Weintraub to
6 the Committee dated July 1, 2013).

7 **B. Legal Analysis**

8 Pursuant to 2 U.S.C. § 434(a), treasurers of political committees are required to file
9 financial disclosure reports, and to do so timely. In particular, pre-primary election reports, such
10 as the Report at issue in this matter, are required to be complete as of the 20th day before the
11 primary election, and must be filed no later than 12 days before the primary election. See
12 2 U.S.C. § 434(a)(2)(A)(i). Here, the Committee acknowledges that its Pre-Primary Report,
13 which was due on May 24, 2012, was not filed until July 16, 2012. In addition, the record
14 reflects that the Committee has failed to file financial disclosure reports, including its 2012 30
15 Day Post-General and Year-End Reports, and subsequent reports for 2013, in violation of
16 2 U.S.C. § 434(a), see n. 5. However, the Committee paid a civil penalty in connection with its
17 failure to file its Post-General Report, and it appears that the Committee may now be inactive.

⁴ This document is the same Miscellaneous Report alluded to in footnote 3.

⁵ In the Miscellaneous Report, which Imus described as a “statement of non activity and no further committee,” he stated that “after the last fine” (presumably the \$990 civil penalty paid in AF 2633), Fugatt assured him that “the final filings would be done” timely. Imus apologized because “this has not happened” as of yet and promised to follow up with Fugatt. Nonetheless, a review of the Committee’s filings, as posted on the Commission’s website, indicates that the last financial disclosure report filed by the Committee was its 2012 Pre-General Report, filed on October 26, 2012, and two 48-Hour Notices, filed on October 26, 2012 and November 3, 2012, respectively. The Commission has sent multiple RFAI notices to the Committee for its failure to file reports in 2013. See RFAs to Committee regarding its failure to file the following: 2013 April Quarterly Report, dated May 3, 2013; 2013 July Quarterly Report, dated August 2, 2013; 2013 October Quarterly, dated on November 1, 2013; and 2013 Year-End Report, dated on February 19, 2014.

1 In light of the Committee's apparent lack of activity, and in furtherance of Commission
2 priorities, the Commission exercises its prosecutorial discretion and dismisses this matter as to
3 Imus for Congress and Chad Hanely in his official capacity as treasurer. *See Heckler v. Chaney*,
4 470 U.S. 821 (1985). The Commission also reminds the Committee to take steps to comply with
5 the requirements of 2 U.S.C. § 434(a), which pertains to the filing of financial disclosure reports.
6 Finally, the Commission finds no reason to believe that Gregg Imus violated the Federal Election
7 Campaign Act of 1971, as amended, or underlying Commission regulations.

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